

A title holding corporation that derives income from rental of real property to the general public is not precluded from exemption under section 501(c)(2) of the Code.

The Internal Revenue Service has been asked whether the corporation described below is exempt from Federal income tax under section 501(c)(2) of the Internal Revenue Code of 1954.

The corporation holds title to a building containing offices that are rented on annual leases to the general public. It collects the rents, pays the expenses incident to operation and maintenance of the building, and turns over the remainder to its parent, a charitable organization exempt from Federal income tax under section 501(c)(3) of the Code. The title holding company renders no substantial services to the tenants other than normal maintenance of the building and grounds. The tenants are not related in any way to the title holding company or the charitable organization for which it holds title.

Section 501(c)(2) of the Code provides for exemption from Federal income tax of corporations organized for the exclusive purpose of holding title to property, collecting income from the property, and turning over the entire amount of the income, less expenses, to an organization which itself is exempt from Federal income tax under section 501 of the Code.

Section 1.501(c)(2)-1(a) of the Income Tax Regulations provides that since a corporation cannot be exempt under section 501(c)(2) if it engages in any business other than that of holding title to property and collecting income therefrom, it cannot have unrelated business taxable income as defined in section 512 other than unrelated business rental income described in section 514. Section 514 of the Code relates to certain leases of real property. Thus it is clear that section 501(c)(2) contemplates that a corporation exempt under its provisions can have income from rental of real property.

The threshold question here is whether the income derived by this corporation from leasing offices in its building is rental income for this purpose.

Section 512(b)(3) of the Code excludes from the determination of unrelated business taxable income rents from real property.

Section 1.512(b)-1(c) of the regulations defines rents for this purpose and states, in part, that payments for the use or occupancy of offices in an office building are generally rentals from real estate. Thus, the income this organization derives is income from rental of real property under the Code and regulations.

The second question is whether a title holding company can receive such income from the general public and retain its exemption under section 501(c)(2) of the Code.

There is nothing in section 501(c)(2) of the Code that prevents corporations exempt under its provisions from renting property to the general public. Moreover, it is considered that the statutory language that requires them to turn over the income from the property to an exempt organization contemplates that income will be received from parties other than the exempt organization for which they hold title.

It is held that income from rental of offices to the general public in the instant case does not preclude exemption from Federal income tax under section 501(c)(2) of the Code. Under the facts stated, this organization qualifies for exemption from Federal income tax under section 501(c)(2) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must (in order to establish exemption under section 501(c)(2) of the Code) file an application on Form 1026, Exemption Application, with the District Director of Internal Revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.